

# TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

## STATE CORPORATION COMMISSION

### Proposed Regulation

**REGISTRAR'S NOTICE:** The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

**Title of Regulation:** **20VAC5-315. Regulations Governing Net Energy Metering (amending 20VAC5-315-10 through 20VAC5-315-50; adding 20VAC5-315-77).**

**Statutory Authority:** §§ 12.1-13 and 56-594 of the Code of Virginia.

**Public Hearing Information:** A public hearing will be held upon request.

**Public Comment Deadline:** October 11, 2019.

**Agency Contact:** David Essah, Utilities Engineer, Division of Public Utilities Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9336, FAX (804) 371-9350, or email david.essah@scc.virginia.gov.

**Summary:**

*To implement the provisions of Chapter 763 of the 2019 Acts of Assembly, the proposed amendments (i) introduce new caps on participation in net metering by customers of electric cooperatives; (ii) authorize electric cooperatives to vote to increase these caps up to a cumulative total of 7.0% of their system peak; (iii) permit third-party partial requirements power purchase agreements for those retail customers and nonjurisdictional customers of an electric cooperative that are exempt from federal income taxation; (iv) establish registration requirements for third-party power purchase agreement providers, including a self-certification system whereby such providers would be added to a registry maintained by the Division of Public Utility Regulation; and (v) make updates necessary for existing text to be consistent with those changes.*

AT RICHMOND, AUGUST 27, 2019

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2019-00119

Ex Parte: In the matter of amending  
regulations governing net energy metering

### ORDER ESTABLISHING PROCEEDING

The Regulations Governing Net Energy Metering, 20 VAC 5-315-10 et seq. ("Net Energy Metering Rules"), adopted by the State Corporation Commission ("Commission") pursuant to § 56-594 of the Virginia Electric Utility Regulation Act, Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia ("Code"), establish the requirements for participation by an eligible customer-generator in net energy metering in the Commonwealth. The Net Energy Metering Rules include conditions for interconnection and metering, billing, and contract requirements between net metering customers, electric distribution companies, and energy service providers.

Chapter 763 of the 2019 Acts of Assembly amended § 56-594 of the Code and added new Code §§ 56-585.4 and 56-594.01 to (1) introduce new caps on participation in net metering by customers of electric cooperatives; (2) authorize electric cooperatives to vote to increase these caps up to a cumulative total of seven percent of their system peak; (3) permit third-party partial requirements power purchase agreements for those retail customers and nonjurisdictional customers of an electric cooperative that are exempt from federal income taxation; and (4) establish registration requirements for third-party partial requirements power purchase agreements, including a self-certification system whereby such providers would be added to a registry maintained by the Commission's Division of Public Utility Regulation. The current Net Energy Metering Rules thus must be revised to reflect the changes set forth in Chapter 763.

Section 56-594.01 of the Code also modified the notification process for customer-generators seeking to interconnect facilities with an electric cooperative. The Commission has been made aware of deficiencies in the form used for such notification, and therefore will consider modification of the form for all providers, including investor-owned utilities.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that a proceeding should be established to amend the Net Energy Metering Rules to provide for net metering by eligible customer-generators served by electric cooperatives and third-party partial power purchase agreements for eligible customers of such cooperatives, as defined in the Code. The amended rules also modify the Net Metering Interconnection Notification Form prescribed by the Net Metering Rules and include a new form for self-registration of third-party power purchase agreement providers.

To initiate this proceeding, the Commission Staff has prepared proposed rules ("Proposed Rules") which are appended to this Order. We will direct that notice of the Proposed Rules be given to the public and that interested persons be provided an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Rules. We further direct that each Virginia electric distribution company within the meaning of 20 VAC 5-315-20 serve a copy of this Order upon each of their respective net metering customers and file a certificate of service. Individuals' comments, proposals, or supplements should be specific to the Proposed Rules and address only those issues pertaining to the amendment of Code § 56-594 and the addition of §§ 56-585.4 and 56-594.01 to the Code pursuant to Chapter 763 of the 2019 Acts of Assembly. Issues outside the scope of implementing these amendments will not be open for consideration.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUR-2019-00119.
- (2) The Commission's Division of Information Resources shall forward a copy of this Order Establishing Proceeding to the Registrar of Regulations for publication in the Virginia Register of Regulations.
- (3) On or before September 13, 2019, each Virginia electric distribution company shall serve a copy of this Order upon each of their respective net metering customers and file a certificate of service no later than October 4, 2019, consistent with the findings above.
- (4) On or before October 11, 2019, any interested person may comment on, propose modifications or supplements to, or request a hearing on the Proposed Rules by filing an original and fifteen (15) copies of such comments or requests with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Individuals' comments, proposals, or supplements should be specific to the Proposed Rules and address only those issues pertaining to the amendment of Code § 56-594 and the addition of §§ 56-585.4 and 56-594.01 to the Code pursuant to Chapter 763 of the 2019 Acts of Assembly. Issues outside the scope of implementing this amendment will not be open for consideration. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed in written comments. If a sufficient request for hearing is not received, the Commission may consider the matter and enter an order based upon the papers filed herein. Interested parties shall refer in their comments or requests to Case No. PUR-2019-00119. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.
- (5) This matter is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

#### **20VAC5-315-10. Applicability and scope.**

~~These regulations are~~ This regulation is promulgated pursuant to the provisions of §§ 56-594, 56-594.01, and 56-594.2 of the Virginia Electric Utility Regulation Act (§ 56-576 et seq. of the Code of Virginia). ~~They establish~~ This chapter establishes requirements intended to facilitate net energy metering for customers owning and operating, or contracting with persons to own or operate, or both, electrical generators that use specific types of renewable energy as the total fuel source. ~~These regulations~~ This chapter will standardize the interconnection requirements for such facilities and will govern the metering, billing, payment, and contract requirements between net metering customers, electric distribution companies, and energy service providers. Agricultural net metering customers are subject to the same provisions as nonagricultural net metering customers unless otherwise specified. On or after July 1, 2019, interconnection of eligible agricultural customer-generators shall cease for member-owned electric cooperatives only, and such facilities shall interconnect solely as small agricultural generators. For member-owned electric cooperatives, agricultural net metering customers whose agricultural renewable fuel generators were interconnected before July 1, 2019, may continue to participate in net energy metering for a period not to exceed 25 years from the date of their agricultural renewable fuel generator's original interconnection.

~~These regulations~~ This chapter also ~~establish~~ establishes requirements for the interconnection of small agricultural generators. Small agricultural generators or agricultural renewable fuel generators may elect to interconnect as a net metering customer or as small agricultural generators pursuant to 20VAC5-315-75, but not both. Existing eligible agricultural renewable fuel generators may elect to become small agricultural generators, but may not revert to being an agricultural renewable fuel generator after such election.

## **20VAC5-315-20. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Agricultural business" means any sole proprietorship, corporation, partnership, electing small business (Subchapter S) corporation, or limited liability company engaged primarily in the production and sale of plants and animals, products collected from plants and animals, or plant and animal services that are useful to the public.

"Agricultural net metering customer" means a customer that operates an electrical generating facility consisting of one or more agricultural renewable fuel generators having an aggregate generation capacity of not more than 500 kilowatts as part of an agricultural business under a net metering service arrangement. An agricultural net metering customer may be served by multiple meters of one utility that are located at separate but contiguous sites and that may be aggregated into one account. This account shall be served under the appropriate tariff.

"Agricultural renewable fuel generator" or "agricultural renewable fuel generating facility" means one or more electrical generators that:

1. Use as their sole energy source solar power, wind power, or aerobic or anaerobic digester gas;
2. The agricultural net metering customer owns and operates, or has contracted with other persons to own or operate, or both;
3. Are located on land owned or controlled by the agricultural business;
4. Are connected to the agricultural net metering customer's wiring on the agricultural net metering customer's side of the agricultural net metering customer's interconnection with the distributor;
5. Are interconnected and operated in parallel with an electric company's distribution facilities; and
6. Are used primarily to provide energy to metered accounts of the agricultural business.

"Billing period" means, as to a particular agricultural net metering customer or a net metering customer, the time period between the two meter readings upon which the electric distribution company and the energy service provider calculate the agricultural net metering customer's or net metering customer's bills.

"Billing period credit" means, for a nontime-of-use agricultural net metering customer or a nontime-of-use net metering customer, the quantity of electricity generated and fed back into the electric grid by the agricultural net metering customer's agricultural renewable fuel generator or generators or by the net metering customer's renewable fuel generator or generators in excess of the electricity supplied to the customer over the billing period. For time-of-use agricultural net metering customers or time-of-use net metering customers, billing period credits are determined separately for each time-of-use tier.

"Competitive service provider" means a person, licensed by the State Corporation Commission, that sells or offers to sell a competitive energy service within the Commonwealth. This term includes affiliated competitive service providers but does not include a party that supplies electricity or natural gas, or both, exclusively for its own consumption or the consumption of one or more of its affiliates. For the purpose of this chapter, competitive service providers include aggregators.

"Contiguous sites" means a group of land parcels in which each parcel shares at least one boundary point with at least one other parcel in the group. Property whose surface is divided only by public right-of-way is considered contiguous.

"Customer" means a net metering customer or an agricultural net metering customer.

"Demand charge-based time-of-use tariff" means a retail tariff for electric supply service that has two or more time-of-use tiers for energy-based charges and an electricity supply demand (kilowatt) charge.

"Electric cooperative" means an electric distribution company organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 of the Code of Virginia, owned by its members.

"Electric distribution company" means the entity that owns or operates the distribution facilities delivering electricity to the premises of an agricultural net metering customer or a net metering customer.

"Energy service provider (supplier)" means the entity providing electricity supply service, either tariffed or competitive service, to an agricultural net metering customer or a net metering customer.

"Excess generation" means the amount of electrical energy generated in excess of the electrical energy consumed by the agricultural net metering customer or net metering customer over the course of the net metering period. For time-of-use agricultural net metering customers or net metering customers, excess generation is determined separately for each time-of-use tier.

"Generator" or "generating facility" means an electrical generating facility consisting of one or more renewable fuel generators or one or more agricultural renewable fuel generators that meet the criteria under the definition of "net metering customer" and "agricultural net metering customer," respectively.

"Net metering customer" means a customer owning and operating, or contracting with other persons to own or operate, or both, an electrical generating facility consisting of one or more renewable fuel generators having an aggregate generation capacity of not more than 20 kilowatts for residential customers and not more than one megawatt for nonresidential customers. The generating facility shall be operated under a net metering service arrangement.

"Net metering period" means each successive 12-month period beginning with the first meter reading date following the final interconnection of an agricultural net metering customer or a net metering customer's generating facility consisting of one or more agricultural renewable fuel generators or one or more renewable fuel generators, respectively, with the electric distribution company's distribution facilities.

"Net metering service" means providing retail electric service to an agricultural net metering customer operating an agricultural renewable fuel generating facility or a net metering customer operating a renewable fuel generating facility and measuring the difference, over the net metering period, between the electricity supplied to the customer from the electric grid and the electricity generated and fed back to the electric grid by the customer.

"Nonprofit customer" or "not-for-profit customer" means a person that is exempt from federal income taxation, including (without limitation) schools, hospitals, institutions of higher education, public charities, and churches and other houses of religious worship, as determined by the Internal Revenue Service.

"Person" means any individual, sole proprietorship, corporation, limited liability company, partnership, association, company, business, trust, joint venture, or other private legal entity, the Commonwealth, or any city, county, town, authority, or other political subdivision of the Commonwealth.

"Purchase power agreement provider" or "PPA provider" means, in an electric cooperative service territory, a person registered with the commission's Division of Public Utility Regulation pursuant to 20VAC5-315-77 to offer third-party partial requirements power purchase agreements to customers.

"Registry" means, in reference to a PPA provider, the list of those persons registered with the commission's Division of Public Utility Regulation as PPA providers.

"Renewable Energy Certificate" or "REC" represents the renewable energy attributes associated with the production of one megawatt-hour (MWh) of electrical energy by a generator.

"Renewable fuel generator" or "renewable fuel generating facility" means one or more electrical generators that:

1. Use renewable energy, as defined by § 56-576 of the Code of Virginia, as their total fuel source;
2. The net metering customer owns and operates, or has contracted with other persons to own or operate, or both;
3. Are located on the net metering customer's premises and connected to the net metering customer's wiring on the net metering customer's side of its interconnection with the distributor;
4. Are interconnected pursuant to a net metering arrangement and operated in parallel with the electric distribution company's distribution facilities; and
5. Are intended primarily to offset all or part of the net metering customer's own electricity requirements. The capacity of any generating facility installed on or after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.

"Small agricultural generating facility" means an electrical generating facility that:

1. Has a capacity of not more than 1.5 megawatts and does not exceed 150% of the customer's expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available;
2. Uses as its total source of fuel renewable energy;

3. Is located on the customer's premises and is interconnected with the utility's distribution system through a separate meter;
4. Is interconnected and operated in parallel with an electric utility's distribution system but not transmission facilities;
5. Is designed so that the electricity generated is expected to remain on the utility's distribution system; and
6. Is a qualifying small power production facility pursuant to the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"System peak" for an electric cooperative, means the highest peak, based on the noncoincident peak of the electric cooperative or the coincident peak of all of the electric cooperative's customers of the past three years listed in Part O, Line 20 of Form 7 (Financial And Operating Report - Electric Distribution) filed with the U.S. Department of Agriculture's Rural Utilities Service (RUS), or an equivalent form if a cooperative is not an RUS borrower, less any portion of the cooperative's total load that is served by a competitive service provider or by a market-based rate.

"Small agricultural generator" means a customer that:

1. Is not an eligible agricultural customer-generator pursuant to § 56-594 of the Code of Virginia;
2. Operates a small agricultural generating facility as part of an agricultural business;
3. May be served by multiple meters that are located at separate but contiguous sites;
4. May aggregate the electricity consumption measured by the meters, solely for purposes of calculating 150% of the customer's expected annual energy consumption but not for billing or retail service purposes, provided that the same utility serves all of its meters;
5. Uses not more than 25% of the contiguous land owned or controlled by the agricultural business for purposes of the renewable energy generating facility; and
6. Provides the electric utility with a certification, attested under oath, as to the amount of land being used for renewable generation.

"Third-party partial requirements power purchase agreement" or "third-party PPA" means, for an electric cooperative, an agreement entered into pursuant to § 56-594.01 K of the Code of Virginia between a customer engaging in net energy metering and a registered PPA provider pursuant to 20VAC5-315-77.

"Time-of-use customer" means an agricultural net metering customer or net metering customer receiving retail electricity supply service under a demand charge-based time-of-use tariff.

"Time-of-use period" means an interval of time over which the energy (kilowatt-hour) rate charged to a time-of-use customer does not change.

"Time-of-use tier" or "tier" means all time-of-use periods given the same name (e.g., on-peak, off-peak, critical peak, etc.) for the purpose of time-differentiating energy (kilowatt-hour)-based charges. The rates associated with a particular tier may vary by day and by season.

#### **20VAC5-315-30. Company notification.**

A. A prospective agricultural net metering customer, a prospective net metering customer, or a prospective small agricultural generator (hereinafter referred to as "customer") shall submit a completed commission-approved notification form to the electric distribution company and, if different from the electric distribution company, to the energy service provider, according to the time limits in this subsection. If the electric distribution company or energy service provider has an electronic notification submittal system in place that captures identical information and implements the same process flow as the commission-approved form then such electronic system shall be acceptable for use in place of the commission-approved form for the purposes of this section.

If the prospective customer has contracted with another person to own or operate, or both, the generator or generators, then the notice will include detailed, current, and accurate ~~contract~~ contact information for the owner or operator, or both, including without limitation, the name and title of one or more individuals responsible for the interconnection and operation of the generator or generators, a telephone number, a physical street address other than a post office box, a fax number, and an email address for each such person.

1. A residential customer shall notify its supplier ~~and~~ prior to starting any construction or installation of an electrical generating facility, or adding capacity to an existing electrical generating facility. The residential customer shall receive approval to interconnect from the electric distribution company prior to installation or adding capacity to an interconnecting the new or expanded electrical generating facility. The electric distribution company shall have 30 days from the date of notification to determine whether the requirements contained in 20VAC5-315-40 have

been met. The date of notification shall be considered to be the third day following the mailing of the notification form by the prospective customer.

2. A nonresidential customer shall notify its supplier ~~and prior to starting any construction or installation of an electrical generating facility or adding capacity to an existing electrical generating facility. The nonresidential customer shall receive approval to interconnect from the electric distribution company prior to installation or adding capacity to an~~ interconnecting the new or expanded electrical generating facility. The electric distribution company shall have 60 days from the date of notification to determine whether the requirements contained in 20VAC5-315-40 have been met. The date of notification shall be considered to be the third day following the mailing of the notification form by the prospective customer.

B. Thirty-one days after the date of notification for a residential customer, and 61 days after the date of notification for a nonresidential customer, the prospective customer may interconnect and begin operation of the generating facility unless the electric distribution company or the energy service provider requests a waiver of this requirement under the provisions of 20VAC5-315-80 prior to the 31st or 61st day, respectively. In cases where the electric distribution company or energy service provider requests a waiver, a copy of the request for waiver must be mailed simultaneously by the requesting party to the prospective customer and to the commission's Division of Public Utility Regulation.

C. The electric distribution company shall file with the commission's Division of Public Utility Regulation a copy of each completed notification form within 30 days of final interconnection.

#### **20VAC5-315-40. Conditions of interconnection.**

A. A prospective customer may begin operation of the generating facility on an interconnected basis when:

1. The customer has properly notified both the electric distribution company and energy service provider (in accordance with 20VAC5-315-30) of the customer's intent to interconnect.
2. If required by the electric distribution company's tariff, the customer has installed a lockable, electric distribution company accessible, load breaking manual disconnect switch at each of the facility's generators.
3. The licensed electrician who installs the customer's generator ~~or generators~~ certifies, by signing the commission-approved notification form, that any required manual disconnect switch ~~or switches are~~ is being installed properly and that the generator ~~or generators have~~ has been installed in accordance with the manufacturer's specifications as well as all applicable provisions of the National Electrical Code. If the customer or licensed Virginia Class A or B general contractor installs the customer's generator ~~or generators~~, the signed final electrical inspection can be used in lieu of the licensed electrician's certification.
4. The vendor certifies, by signing the commission-approved notification form that the generator ~~or generators~~ being installed ~~are~~ is in compliance with the requirements established by Underwriters Laboratories or other national testing laboratories in accordance with IEEE Standard 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems, July 2003.
5. In the case of static inverter-connected generators with an alternating current capacity in excess of 10 kilowatts, the customer has had the inverter settings inspected by the electric distribution company. The electric distribution company may impose a fee on the customer of no more than \$50 for each generator that requires this inspection.
6. In the case of nonstatic inverter-connected generators, the customer has interconnected according to the electric distribution company's interconnection guidelines and the electric distribution company has inspected all protective equipment settings. The electric distribution company may impose a fee on the customer of no more than \$50 for each generator that requires this inspection.
7. The following requirements shall be met before interconnection may occur:
  - a. Electric distribution facilities and customer impact limitations. A customer's generator shall not be permitted to interconnect to distribution facilities if the interconnection would reasonably lead to damage to any of the electric distribution company's facilities or would reasonably lead to voltage regulation or power quality problems at other customer revenue meters due to the incremental effect of the generator on the performance of the electric distribution system, unless the customer reimburses the electric distribution company for its cost to accommodate the interconnection, including the reasonable cost of equipment required for the interconnection.
  - b. Secondary, service, and service entrance limitations. The capacity of the generators at any one service location shall be less than the capacity of the electric distribution company-owned secondary, service, and service entrance cable connected to the point of interconnection, unless the customer reimburses the electric distribution company for the reasonable cost of equipment required for the interconnection.

c. Transformer loading limitations. A customer's generator shall not have the ability to overload the electric distribution company's transformer, or any transformer winding, beyond manufacturer or nameplate ratings, unless the customer reimburses the electric distribution company for the reasonable cost of equipment required for the interconnection.

d. Integration with electric distribution company facilities grounding. The grounding scheme of each generator shall comply with IEEE 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems, July 2003, and shall be consistent with the grounding scheme used by the electric distribution company. If requested by a prospective customer, the electric distribution company shall assist the prospective customer in selecting a grounding scheme that coordinates with its distribution system.

e. Balance limitation. The generator ~~or generators~~ shall not create a voltage imbalance of more than 3.0% at any other customer's revenue meter if the electric distribution company transformer, with the secondary connected to the point of interconnection, is a three-phase transformer, unless the customer reimburses the electric distribution company for the reasonable cost of equipment required for the interconnection.

B. A For an investor-owned electric distribution company, a prospective customer or small agricultural generator shall not be allowed to interconnect a generator to the distribution system if doing so will cause the total rated generating alternating current capacity of all interconnected net metered generators, as defined in 20VAC5-315-20, within that customer's electric distribution company's Virginia service territory to exceed 1.0% of that company's Virginia peak-load forecast for the previous year. In any case where a prospective customer has submitted a notification form required by 20VAC5-315-30 and that customer's interconnection would cause the total rated generating alternating current capacity of all interconnected net metered generators, as defined in 20VAC5-315-20, within that investor-owned electric distribution company's service territory to exceed 1.0% of that company's Virginia peak-load forecast for the previous year, the electric distribution company shall, at the time it becomes aware of the fact, send written notification to the prospective customer and to the commission's Division of Public Utility Regulation that the interconnection is not allowed. In addition, upon request from any customer, the electric distribution company shall provide to the customer the amount of capacity still available for interconnection pursuant to § 56-594 D of the Code of Virginia.

C. For an electric cooperative, a prospective customer shall not be allowed to interconnect a generator to the distribution system if doing so will cause the total rated generating alternating current capacity of all interconnected net metered generators, as defined in 20VAC5-315-20, within the cooperative's Virginia service territory to exceed the following percentages of system peak: (i) for nonjurisdictional and nonprofit customers, 2.0% of the cooperative's system peak; (ii) for residential customers, 2.0% of the cooperative's system peak; or (iii) for other nonresidential customers, 1.0% of the cooperative's system peak. Such caps shall not decrease but may increase if the system peak in any year exceeds the previous year's system peak. For purposes of calculating the caps established in this subsection, all net energy metering shall be counted, whenever interconnected, and shall include net energy metering interconnected pursuant to § 56-594 of the Code of Virginia, agricultural net energy metering, and any net energy metering entered into with a third-party PPA provider registered pursuant to § 56-594.01 K of the Code of Virginia. Net energy metering with nonjurisdictional customers entered into prior to July 1, 2019, may be counted toward the caps, in the discretion of the cooperative, as net energy metering if the nonjurisdictional customer takes service pursuant to a cooperative's net energy metering rider. Net energy metering with nonjurisdictional customers entered into on or after July 1, 2019, shall be counted toward the caps by default unless the cooperative has reason to exclude such net energy metering as subject to a separate contract or arrangement. Each electric cooperative governed by this section shall publish information regarding the calculation and status of its caps, or the electric cooperative's systemwide cap established via § 56-585.4 or 56-594.01 G of the Code of Virginia if applicable, on the electric cooperative's website. In any case where a prospective customer has submitted a notification form required by 20VAC5-315-30 and that customer's interconnection would cause the total rated generating alternating current nameplate capacity of all interconnected net metered generators to exceed the percentages stated in this subsection, the electric cooperative shall, at the time it becomes aware of the fact, send written notification to the prospective customer and to the commission's Division of Public Utility Regulation that the interconnection is not allowed and shall update its website. In addition, upon request from any customer, the electric distribution company shall provide to the customer the amount of capacity still available for interconnection pursuant to § 56-594.01 F of the Code of Virginia.

~~C.~~ D. Neither the electric distribution company nor the energy service provider shall impose any charges upon a customer for any interconnection requirements specified by this chapter, except as provided under subdivisions A 5, A 6, and A 7 of this section, 20VAC5-315-50, and 20VAC5-315-70 as related to additional metering.

~~D. E.~~ A customer shall immediately notify the electric distribution company of any changes in the ownership of, operational responsibility for, or contact information for any of the customer's generators.

**20VAC5-315-50. Metering, billing, payment and contract or tariff considerations.**

Net metered energy shall be measured in accordance with standard metering practices by metering equipment capable of measuring (but not necessarily displaying) power flow in both directions. Each contract or tariff governing the relationship between a customer, electric distribution company, or energy service provider shall be identical, with respect to the rate structure, all retail rate components, and monthly charges, to the contract or tariff under which the same customer would be served if such customer were not an agricultural net metering customer or a net metering customer with the exceptions that a residential net metering customer or an agricultural net metering customer whose generating facility has a capacity that exceeds 10 kilowatts shall pay any applicable tariffed monthly standby charges to the supplier, and that time-of-use metering under an electricity supply service tariff having no demand charges is not permitted. Said contract or tariff shall be applicable to both the electric energy supplied to, and consumed from, the grid by that customer.

In instances where a customer's metering equipment is of a type for which meter readings are made off site and where this equipment has, or will be, installed for the convenience of the electric distribution company, the electric distribution company shall provide the necessary additional metering equipment to enable net metering service at no charge to the customer. In instances where a customer has requested, and where the electric distribution company would not have otherwise installed, metering equipment that is intended to be read off site, the electric distribution company may charge the customer its actual cost of installing any additional equipment necessary to implement net metering service. A time-of-use customer shall bear the incremental metering costs associated with net metering. Any incremental metering costs associated with measuring the output of any generator ~~or generators~~ for the purposes of receiving renewable energy certificates shall be installed at the customer's expense unless otherwise negotiated between the customer and the REC purchaser. Agricultural net metering customers may be responsible for the cost of additional metering equipment necessary to accomplish account aggregation.

The customer shall receive no compensation for excess generation unless the customer has entered into a power purchase agreement with its supplier.

Upon the written request of the customer, the customer's supplier shall enter into a power purchase agreement for the excess generation for one or more net metering periods, as requested by the customer. The written request of the customer shall be submitted prior to the beginning of the first net metering period covered by the power purchase agreement. The power purchase agreement shall be consistent with this chapter. If the customer's supplier is an investor-owned electric distribution company, the supplier shall be obligated by the power purchase agreement to purchase the excess generation for the requested net metering periods at a price equal to the PJM Interconnection, L.L.C. (PJM) zonal day-ahead annual, simple average LMP (locational marginal price) for the PJM load zone in which the electric distribution company's Virginia retail service territory resides (simple average of hourly LMPs, by tiers, for time-of-use customers), as published by the PJM Market Monitoring Unit, for the most recent calendar year ending on or before the end of each net metering period, unless the electric distribution company and the customer mutually agree to a higher price or unless, after notice and opportunity for hearing, the commission establishes a different price or pricing methodology. If the Virginia retail service territory of the investor-owned electric distribution company does not reside within a PJM load zone, the power purchase agreement shall obligate the electric distribution company to purchase excess generation for the requested net metering periods at a price equal to the systemwide PJM day-ahead annual, simple average LMP (simple average of hourly LMPs, by tiers, for time-of-use customers), as published by the PJM Market Monitoring Unit, for the most recent calendar year ending on or before the end of each net metering period, unless the electric distribution company and the customer mutually agree to a higher price or unless, after notice and opportunity for hearing, the commission establishes a different price or pricing methodology.

If the customer's supplier is a member-owned electric cooperative, the supplier shall be obligated by the power purchase agreement to purchase excess generation for the requested net metering periods at a price equal to the simple average (by tiers for time-of-use customers) of the electric cooperative's hourly avoidable cost of energy, including fuel, based on the energy and energy-related charges of its primary wholesale power supplier for the net metering period, unless the electric distribution company and the customer mutually agree to a higher price or unless, after notice and opportunity for hearing, the commission establishes a different price or pricing methodology.

If the customer's supplier is a competitive ~~supplier~~ service provider, the supplier shall be obligated by the power purchase agreement to purchase the excess generation for the requested net metering periods at a price equal to the systemwide PJM day-ahead annual, simple average LMP (simple average of hourly LMPs, by tiers, for time-of-use customers), as published by the PJM Market Monitoring Unit, for the most recent calendar year ending on or before



the end of each net metering period, unless the supplier and the customer mutually agree to a higher price or unless, after notice and opportunity for hearing, the commission establishes a different price or pricing methodology.

The customer's supplier shall make full payment annually to the customer within 30 days following the latter of the end of the net metering period or, if applicable, the date of the PJM Market Monitoring Unit's publication of the previous calendar-year's applicable zonal or systemwide PJM day-ahead annual, simple average LMP, or hourly LMP, as appropriate. The supplier may offer the customer the choice of an account credit in lieu of a direct payment. The option of a customer to request payment from its supplier for excess generation and the price or pricing formula shall be clearly delineated in the net metering tariff of the electric distribution company or timely provided by the customer's competitive supplier, as applicable. A copy of such tariff, or an Internet link to such tariff, at the option of the customer, shall be provided to each prospective customer requesting interconnection of a generating facility. A competitive supplier service provider shall provide in its contract with the customer the price or pricing formula for excess generation.

For a nontime-of-use customer, in any billing period in which there is a billing period credit, the customer shall be required to pay only the nonusage sensitive charges, including any applicable standby charges, for that billing period. For a time-of-use customer, in any billing period for which there are billing period credits in all tiers, the customer shall be required to pay only the demand ~~charge or~~ charges, nonusage sensitive charges, and any applicable standby charges, for that billing period. Any billing period credits shall be accumulated, carried forward, and applied at the first opportunity to any billing periods having positive net consumptions (by tiers, in the case of time-of-use customers). However, any accumulated billing period credits remaining unused at the end of a net metering period shall be carried forward into the next net metering period only to the extent that such accumulated billing period credits carried forward do not exceed the customer's billed consumption for the current net metering period, adjusted to exclude accumulated billing period credits carried forward and applied from the previous net metering period (recognizing tiers for time-of-use customers).

A customer owns any renewable energy certificates (RECs) associated with the total output of its generating facility. A supplier is only obligated to purchase a customer's RECs if the customer has exercised its one-time option at the time of signing a power purchase agreement with its supplier to include a provision requiring the purchase by the supplier of all generated RECs over the duration of the power purchase agreement.

Payment for all whole RECs purchased by the supplier during a net metering period in accordance with the power purchase agreement shall be made at the same time as the payment for any excess generation. The supplier will post a credit to the customer's account, or the customer may elect a direct payment. Any fractional REC remaining shall not receive immediate payment, but may be carried forward to subsequent net metering periods for the duration of the power purchase agreement.

The rate of the payment by the supplier for a customer's RECs shall be the daily unweighted average of the "CR" component of Virginia Electric and Power Company's Virginia jurisdiction Rider G tariff in effect over the period for which the rate of payment for the excess generation is determined, unless the customer's supplier is not Virginia Electric and Power Company, and that supplier has an applicable Virginia retail renewable energy tariff containing a comparable REC commodity price component, in which case that price component shall be the basis of the rate of payment. The commission may, with notice and opportunity for hearing, set another rate of payment or methodology for setting the rate of payment for RECs.

To the extent that RECs are not sold to the customer's supplier, they may be sold to any willing buyer at any time at a mutually agreeable price.

**20VAC5-315-77. Rules governing PPA providers and third-party partial requirements power purchase agreements in electric cooperative service territories**

A. The provisions of this section are promulgated pursuant to § 56-594.01 K and L of the Code of Virginia.

B. Pursuant to § 56-594.01 L of the Code of Virginia, the commission has no jurisdiction over civil contract disputes and claims for damages against PPA providers.

C. PPA providers shall only enter into third party partial requirements power purchase agreements with those retail customers and nonjurisdictional customers of the electric cooperative that are exempt from federal income taxation, unless otherwise permitted by § 56-585.4 of the Code of Virginia.

D. The commission's Division of Public Utility Regulation shall administer and maintain a registry of PPA providers eligible to offer third-party partial requirements power purchase agreements.

E. Prior to entering into a third-party partial requirements power purchase agreement with an eligible customer, a PPA provider shall submit a complete Form PPAR to the commission's Division of Public Utility Regulation and be listed on the registry of eligible PPA providers.

F. PPA provider registration shall be of two classes: residential and nonresidential. A PPA provider shall submit a Form PPAR for each class of customers it desires to serve.

G. The PPA provider shall submit a \$250 registration fee payable to the State Corporation Commission. If the PPA provider intends to be registered to serve both residential and nonresidential customers, then a \$500 registration fee shall be paid.

H. In addition to a completed Form PPAR, a PPA provider shall provide to the Division of Public Utility Regulation, contemporaneously with submitting Form PPAR, demonstration of its financial ability by providing one of the following:

1. Evidence of an investment-grade credit rating of BBB+ or higher;
2. Liquid assets of at least \$150,000, as shown by the per books balance sheet, income statement, and statement of changes in financial position of the applicant or the entity responsible for the financing of the applicant, for the two most recent annual periods. Audited financial statements shall be provided, if available, including notes to the financial statements and auditor's letter. Published financial information that includes Securities and Exchange Commission forms 10K and 10Q shall be provided, if available; or
3. A continuous performance or surety bond in a minimum amount of \$50,000 in a form to be prescribed by the commission staff. The bond shall be provided to the Division of Public Utility Regulation simultaneously with the application.

I. Upon receipt of Form PPAR, which includes the certifications required by § 56-594.01 L 3 of the Code of Virginia, and the appropriate demonstration of financial ability pursuant to subsection H of this section, the Division of Public Utility Regulation staff shall review the application to ensure it is complete. Such review shall not take longer than 30 days from receipt of complete registration material. Upon completion of the review, the PPA provider shall be added to the registry. The commission staff shall not investigate the corporate structure, financing, bookkeeping, accounting practices, contracting practices, prices, or terms and conditions in a third-party partial requirements power purchase agreement.

J. PPA providers shall adhere to the following standards of conduct:

1. PPA providers offering solar third-party PPAs shall adhere to the Solar Energy Industry Association's Solar Business Code.
2. PPA providers offering wind third-party PPAs shall adhere to the Distributed Wind Energy Association's Code of Ethics.
3. PPA providers offering other types of third-party PPAs (falling water, biomass, waste energy, landfill gas, municipal solid waste, wave motion, tides, or geothermal power) shall adhere to the North American Board of Certified Energy Practitioners Code of Ethics and Standards of Conduct.
4. PPA provider contracts shall include a conspicuous notice that the PPA provider adheres to the relevant standards of conduct and the PPA provider shall include a copy of or link to the standards of conduct on its website.

K. PPA providers shall have and include in customer contracts and on their Internet websites, a customer dispute resolution procedure.

L. Should the commission staff have reason to doubt the veracity of any certifications of the provider made as part of an application, or, in any other case, if extenuating or extraordinary circumstances exist that warrant a proceeding, the staff may initiate a formal proceeding by motion.

M. The commission's jurisdiction over PPA providers shall be limited to the investigation, prosecution, and adjudication of complaints from any person as to the provider's adherence to a commission-approved standard of conduct, the behavior of a provider's employees, agents, representatives, or contractors, and the representations made to customers in reference to the provider's business as it relates to third-party partial power purchase agreements.

N. The commission's authority to impose remedies against PPA providers is limited to monetary penalties not to exceed \$30,000 per PPA provider registration; orders for PPA providers to cease or desist from a certain practice, act, or omission; removal from the registry; and the issuance of orders to show cause.

O. No PPA provider shall, by virtue of that status alone, be considered a public utility or competitive service provider for purposes of Title 56 of the Code of Virginia.

**NOTICE:** Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (20VAC5-315)

~~[Agricultural Net Metering or Net Metering Interconnection Notification, Form NMIN \(eff. 12/2015\)](#)~~

[Agricultural Net Metering or Net Metering Interconnection Notification, Form NMIN \(eff. 1/2020\)](#)

[Self-Certification for Registration as a Third-Party Requirements Power Purchase Agreement Registered Provider, Form PPAR \(eff. 1/2020\)](#)